

July 15, 2009  
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE  
BENTON COUNTY PLANNING BOARD

WHEN: July 15, 2009  
TIME: 5:30 p.m. The Benton County Planning Board will meet to receive Public Comments on any of the proposed projects on the agenda.  
PLACE: Benton County Administration Building, 215 East Central Avenue  
Quorum Courtroom, 3rd Floor (Suite 324), Bentonville, AR 72712

**AGENDA FOR REGULAR PUBLIC HEARING**

**1. Call to Order**

**2. Roll Call**

The following Benton County Planning Board members were present: Scott Borman, Jim Cole, Mark Curtis, Lane Gurel, Bill Kneebone, Ken Knight and Heath Ward.

The following Benton County Planning Office staff members were present: Chris Glass, Teresa Sidwell and Karen Stewart.

**3. Disposition of the Minutes** of June 3, 2009 technical advisory committee meeting and the June 17, 2009 public hearing meeting as distributed.

*Mr. Borman made a motion that the minutes be accepted as distributed; Mr. Knight seconded the motion.*

*Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward all voted in favor of the motion; the motion was passed.*

**4. Reports of Planning Board members**

Mr. Curtis stated that the commercial development subcommittee was still working on putting information together, but that the matrix is mostly complete. He stated that by the next TAC meeting, the matrix should be complete. He added that the subcommittee would schedule a meeting before the next TAC meeting on August 5th, 2009.

**5. Public Comment**

Mr. Ward opened the floor for public comment; there was none, so public comment was closed.

## 6. **Old Business:**

A. Large Scale Development – **Whispering Woods Community Center** – 10142 Coose Bay Blvd., Avoca

Mr. Shel Spivey of 108 West Walnut in Rogers represented the project. Mr. Ward read the list of stipulations from the June 3rd, 2009 TAC meeting:

- Change stipulation regarding vegetation recommendation of pine trees as a visual and noise barrier to shorter, dense evergreen trees or bushes.
- Consider adding a third rail to fence as recommended by Board.
- Local fire authority approval of emergency entry for gate must be submitted to Staff.
- Staff will provide a copy of the property easement to the Board.
- Gate location options must be provided to the Board and approved by the adjoining property owners
- Staff will contact adjoining property owners in regards to the gate location and the public hearing.
- Health Department approval of composting toilet system.

Mr. Glass stated that he had a conversation with Mrs. Gerhardt, who indicated that she had no issues regarding the requested changes of the landscaping buffer or the gate placement. He stated that the Gerhardt's accepted the offers of a membership in the community center that would run with the current as well as successive owners and the placement of a gate on their property. Mr. Glass added that the WLH, LLC property owner has a continuing opposition to the use of the easement by the Whispering Woods Community Center.

Mr. Spivey stated that the Avoca Fire Department has requested that the gate have an emergency access box. Mrs. Spivey stated that the landscape designer has requested that the plants be planted in September. Mrs. Spivey submitted a new landscape plan to the Board members. Mrs. Spivey stated that the third rail on the fence had been installed on the front of the property. Mr. Glass asked Mrs. Spivey if the fencing along the Gerhardt line had a third rail installed; Mrs. Spivey stated that it would be installed along that property line.

Mr. Spivey stated that the location of the gate was on their own property so that there would not be any issue with the other property owners or the easement. He added that a post with a sign would be placed by the main road stating that it is a private drive with no turn around. Mr. Spivey commented that the composting toilet was not complete yet but a county official was looking at it.

Mr. Curtis stated that he was please with the landscaping and that the concerns with the Gerhardts had been resolved. Mr. Glass stated that the issue with WLH, LLC was a civil matter that would not be resolved by the Board. Mr. Gurel asked for clarification on the easement and the ownership of the property.

*Mr. Knight made a motion to approve the project subject to the stipulations that the gate, fence, and lockbox be installed within 30 days and a receipt for the purchase of the landscape material purchase be made available to Staff; the motion was seconded by Mr. Curtis.*

*Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward all voted in favor of the motion; the motion was passed.*

7. **New Business:**

A. Large Scale Development - **Gentry Church of God Mennonite School** – 10798 Bloomfield North Rd., Gentry

Mr. Ken Booth of Sand Creek Engineering represented the project.

Mrs. Stewart showed a PowerPoint presentation of the project to the Board.

Mr. Borman asked Mr. Booth where the water line was located on the property. Mr. Booth stated that the service was provided by Gentry water. Mr. Borman stated that he would like to see the water main and connection on the prints.

Mr. Knight asked how much land would be disturbed; Mr. Booth stated that it would disturb a quarter acre of land. Mr. Knight asked if fill would be brought in; Mr. Booth stated that a little red dirt would be required. Mr. Knight inquired about the septic system. Mr. Booth stated that a letter had been submitted to staff and it was adequate to meet the expanded needs for the project. Mr. Curtis asked if it was a separate system from the church. Mr. Booth stated that it was.

*Mr. Borman made a motion to approve the project subject to the water line and main location to be shown on the final building plans; the motion was seconded by Mr. Kneebone.*

*Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward all voted in favor of the motion; the motion was passed.*

After the discussion of the project, Mr. Tim Sorey of Sand Creek Engineering was recognized by the Board; he asked for clarification of the rules regarding planning jurisdictions. Mr. Glass stated that projects should go before the city in whose planning boundary a project falls. If the city planning board chooses not to review the project then it will go before the county planning board.

Mr. Curtis asked the applicant for a timeline for the Gentry Mennonite School project. Mr. Sorey stated that the project will begin in September and the project will be built mostly by the owner so it will hard to determine a completion time.

B. Variance from Large Scale Development – **Mike's Auto Sales** – 2600 Aspen Ln., Rogers

Mrs. Jennifer Oldham of 2600 Aspen Lane, Rogers represented the project.

Mrs. Stewart showed site photographs to the Board. She stated that the applicant had pulled a building permit in 2007 for a residential garage and had only the footing and slab inspected. Mrs. Stewart stated that Mrs. Oldham had submitted letters from neighbors Marvin Howington and Julian Salinas. She read the letters for the record and added the letters to the Benton County Planning Department file for the project.

Mr. Borman asked if the vehicles parked on the property were personal property or for sale. Mrs. Oldham stated that two vehicles were personal property, two were for sale, and one was a Car-Mart vehicle that was there to be cleaned. Mrs. Stewart asked if the public came to this site to purchase vehicles. Mrs. Oldham stated that her husband was a wholesaler to Car-Mart and his business was not open to the public. She added that vehicles purchased by her husband were at this site for ten days at the most.

Mr. Borman asked if all the cars were placed behind the privacy fence at the end of the day. Mrs. Oldham stated that eight cars could fit within the privacy fence and usually only two vehicles would be out front at the end of the day. Mrs. Stewart stated that the pictures show that the building is set far from the street so it would not be blocking traffic.

Mr. Glass asked Mrs. Oldham about chemicals used for cleaning engines. Mrs. Oldham replied that the degreaser used was eco-friendly and that any chemicals from oil and transmission changes is stored in a container and transported to the Junk Yard Dog business who uses it for heating. Mrs. Stewart stated that Staff has a Hazardous Chemical Compliance letter on file from the Department of Emergency Management for this project. Mr. Glass asked if ADEQ had been contacted to inquire of the project's generator status. Mrs. Stewart stated that other documentation submitted by the applicant was a Sales and Use Tax Permit from the State of Arkansas and a Used Motor Vehicle License from Arkansas State Police.

Mr. Borman asked if the applicant had Rogers Water; Mrs. Oldham stated that they were on a well. Mr. Borman inquired as to the water source used for cleaning the cars; Mrs. Oldham stated that it was water from the well. Mr. Borman asked if the applicant had back flow prevention installed on the system; Mrs. Oldham stated that she did not know if a back flow was on the system. Mr. Borman stated that there is a potential for cross contamination of the well.

Mr. Curtis asked the representative to clarify about the trucks hauling fuel through someone else's property. Mrs. Oldham stated that they have a propane tank behind the shop used for heating the shop. She added that Mr. Salinas had given them permission to cross his property for the truck to gain access to the tank. Mrs. Oldham stated that the truck has used the entrance two times in the last three years. Mr. Ward stated that an email stated that the driveway was cracked. Mrs. Oldham stated that she was aware of this and stated that the propane truck had cracked the concrete.

- Staff will contact ADEQ regarding their requirements for this type of business.
- The applicant must find out if there is backflow prevention currently installed on the water system.

- The applicant must obtain a letter from the Department of Health District Engineer, Roy Davis, regarding backflow protection requirements to prevent well contamination.

*Mr. Borman made a motion to table the project to allow the applicant 30 days to provide the above mentioned stipulations to the Board; Mr. Kneebone seconded the motion.*

*Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Kneebone, Mr. Knight and Mr. Ward all voted in favor of the motion; the motion was passed.*

Mr. Gurel asked Mr. Glass if the territorial jurisdiction meeting would be open to the planning board members. Mr. Glass explained that the meeting was open to anyone that was interested. Mr. Kneebone stated that there was a law regarding a 5 mile area outside the city limits. Mr. Glass said that he understood the law and the use of the word "shall."

## 8. **Adjournment**

The meeting was adjourned at 6:30 pm.